Before the Federal Communications Commission Washington, D.C. 2054

| In the Matter of |) |
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| |) |
| KOCH SKANSKA INC. |) |
| Industrial/Business Pool Station KBG477 |) |

ORDER ON RECONSIDERATION

Adopted: March 4, 2011 Released: March 7, 2011

By the Deputy Chief, Mobility Division, Wireless Telecommunications Bureau:

- 1. We have before us a petition¹ filed by Atlantic Telecommunications (Atlantic), seeking reconsideration of our *Order*² modifying the license of Koch Skanska Inc. (Koch Skanska) for Station KBG477, New York, New York. For the reasons set forth below, we deny the petition.
- 2. The license for Station KBG477 authorized operation of a base station at 233 Broadway transmitting on frequency 472.3375 MHz, and four mobile units transmitting on frequencies 472.3375 MHz and 475.3375 MHz within forty-eight kilometers of 233 Broadway. Based on a request filed by Atlantic,³ the Wireless Telecommunications Bureau's Mobility Division (Division), acting pursuant to Section 308(b) of the Communications Act of 1934, as amended,⁴ directed Koch Skanska to provide information concerning the operational status of Station KBG477.⁵ Koch Skanska replied that the base station was no longer in use, but the licensed frequencies were being used for mobile-to-mobile communications.⁶ As a result, the Division concluded that the authorization for the base station had terminated automatically pursuant to Section 90.157(a) of the Commission's Rules,⁷ and ordered that the Commission's licensing database be modified to delete location 1 from the license.⁸ The Division stated that the authorization for the mobile units remained valid.⁹
- 3. Atlantic argues that the Division erred in not canceling the entire license for Station KBG477. It cites a decision of the Division's predecessor for the proposition that mobile-to-mobile communications do not satisfy the "placed-in-operation" requirement for facilities authorized for base-mobile communication, and results in an automatic cancellation of the license. ¹⁰ We note, however, that

¹ Atlantic Telecommunications, Petition for Reconsideration (filed Aug. 23, 2010) (Petition).

² Koch Skanska Inc., Order, 25 FCC Rcd 11052 (WTB MD 2010) (Order).

³ Request for Initiation of License Revocation Proceeding (filed Dec. 30, 2009).

⁴ 47 U.S.C. § 308(b).

⁵ See Letter dated Feb. 1, 2010, from Scot Stone, Deputy Chief, Wireless Telecommunications Bureau, to Koch Skanska Inc.

⁶ See Electronic mail message dated Feb. 26, 2010, from Patrick Mitchell to Scot Stone.

⁷ 47 C.F.R. § 90.157(a).

⁸ See Order, 25 FCC Rcd at 11053 ¶ 5.

⁹ *Id.* at 11052 n. 8 (citing Quatron Communications, Inc., *Memorandum Opinion and Order*, 15 FCC Rcd 4749, 4756 ¶ 19 (2000)).

¹⁰ See Petition at 2 (citing National Science & Technology Network, Inc., *Order*, 15 FCC Rcd 16491 (WTB PSPWD 2000) (citing Amendment of Parts 1 and 90 of the Commission's Rules Concerning the Construction, Licensing and Operation of Private Land Mobile Radio Stations, *Report and Order*, PR Docket No. 90-481, 6 FCC Rcd 7297, 7299 ¶ 9-10 (1991))).

the rule section on which that decision relied provides only that a *base station* will not be considered to be placed in operation unless there are communications between the base station and a mobile unit; it does not provide that mobile units that engage in mobile-to-mobile communications will not be deemed to be placed in operation.¹¹

- 4. Moreover, the Commission has clearly recognized the permissibility of mobile-only authorizations in this band. There are numerous licenses authorized for mobile-to-mobile communications only. Some of them are original authorizations; others are licenses that originally authorized base-mobile communications. The current terms and technical specifications of Koch Skanska's license for Station KBG477 do not conflict with any Commission rules or policies. We therefore deny Atlantic's petition for reconsideration.
- 5. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), 405, and Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, the petition for reconsideration filed by Atlantic Telecommunications on August 23, 2010 IS DENIED.
- 6. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. § 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Scot Stone Deputy Chief, Mobility Division Wireless Telecommunications Bureau

¹¹ See 47 C.F.R. § 90.155(c).

¹² See Amendment of Part 90 of the Commission's Rules, Second Report and Order and Second Further Notice of Proposed Rule Making, WP Docket No. 07-100, 25 FCC Rcd 2479, 2496 ¶¶ 41-42 (2010) (seeking comment on to treat stations with no permanent base station when coordinating new co-channel or adjacent channel trunked systems).